

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2663 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NARENDRAKUMAR VIRCHAND PATEL

Versus

M.D. HIGH SCHOOL

Appearance:

MR JD AJMERA for Petitioner

MR BH MEHTA for Respondent No. 1

MR RM DESAI for Respondent No. 2, 3

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 30/08/96

ORAL JUDGEMENT

The petitioner Narendrakumar V. Patel was a qualified teacher and he was appointed as an Assistant Teacher with the Respondent No.1 school with effect from December 27,1979. It appears that the petitioner was not given a formal appointment order in writing, but in fact he had worked in the above said capacity till 3rd May

1980. Any how he was not paid his due salary and that, when on the opening of the school after the vacation he had reported on duty, he was told that his services have been terminated. The petitioner had actually worked in the school from December 27, 1979 to 3rd May 1980. Looking to the qualification of the petitioner and looking to a further fact that he was a trained teacher, according to him, he was entitled to the salary in the pay scale of Rs.440-750. According to him the total due amount would come to Rs.3,892-50.

As this amount was not being paid to the petitioner he had moved the Tribunal constituted under the Gujarat Secondary Education Act, 1972. His application which was registered as Application No. 112 of 1981 came to be allowed under the orders dated November 26, 1982. This orders which are in favour of the petitioner could not be implemented and therefore the petitioner has approached this Court. The principal prayer is that, the respondent management should be directed to pay the above said amount to the petitioner as per the judgment and orders of the Tribunal dated November 26, 1982. The alternative prayer is that, the respondent authorities should withhold the grant of the management of the school to the aforesaid extent and to pay the same directly to the petitioner.

Upon hearing learned counsel for the petitioner Mr. J.D.Ajmera, it appears that the present petition requires to be granted, by directing the school management to pay the above said amount to the petitioner. The rationale behind this orders is absolutely clear. The District Education Officer, Mehsana District at Patan, has ordered and intimated to the Principal of the School way back on February 28, 1984 that, the above said amount should be paid to the petitioner forthwith and that, the report in that respect should be forwarded to the Government. Thus, it is clear that, even according to the Department of Education the respondent no.1 was duty bound to pay the above said amount to the petitioner. It would be therefore appropriate to order the Respondent No.1 school to pay the above said amount to the petitioner forthwith. The present petition succeeds to the above said extent and the same is accordingly allowed. Rule is made absolute accordingly.
